

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
 REGION V  
 AND  
 OHIO ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF :

Nease Chemical Site  
 Salem, Ohio

RESPONDENT,

Proceeding Under Section 122(a)  
 and (d)(3) of the Comprehen-  
 sive Environmental Response,  
 Compensation, and Liability  
 Act of 1980, as amended, and  
 Sections 3734.13, 3734.20  
 and 6111.03 of the Ohio Re-  
 vised Code.

ADMINISTRATIVE ORDER  
 BY CONSENT RE: REMEDIAL  
 INVESTIGATION AND  
 FEASIBILITY STUDY

U.S. EPA Docket No.

Ohio EPA Director's Final  
Findings and Orders

I. JURISDICTION

A. This ADMINISTRATIVE ORDER BY CONSENT ("Consent Order") is issued pursuant to the authority vested in the President of the United States by Section 122(a) and (d)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 42 U.S.C. §9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986 Pub.L. 99-499 ("CERCLA"), and delegated to the Administrator of the United States Environmental Protection Agency ("U.S. EPA") on January 23, 1987, by Executive Order No. 12580, 52 Federal Register 2923, and further delegated to the Assistant Administrator for Solid Waste and Emergency

EPA Region 5 Records Ctr.



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Response and the Regional Administrators by U.S. EPA Delegation Number 14-14-C, on February 26, 1987 and further delegated by U.S. EPA Region V Delegation Number 14-14-C to the Director of the Waste Management Division on September 14, 1987. The Consent Order also is issued pursuant to the authority vested in OEPA by Ohio Revised Code (ORC) §§ 3734.13, 3734.20 and 6111.03.

B. The Respondent to this Consent Order agrees to undertake all actions required by the terms and conditions hereunder, and consents to and will not contest or legally challenge the issuance of this Consent Order or the U.S. EPA's or Ohio EPA's jurisdiction regarding this Consent Order. No action taken by Respondent in entering into or pursuant to this Consent Order shall be construed as an admission of liability or violation of any federal, state or local law.

## II. NOTICE OF ACTION

U.S. EPA has notified the Federal Natural Resource trustee of this action pursuant to the requirements of Section 122 (j) of CERCLA.

## III. DEFINITIONS

As used in this Consent Order and the Remedial Investigation/ Feasibility Study (hereinafter "RI/FS") Work Plan (hereinafter "Work Plan"), the following shall be defined terms:

- a. "U.S. EPA" shall mean the United States Environmental Protection Agency, its employees and its designated representatives.

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- b. "OEPA" shall mean the Ohio Environmental Protection Agency, its employees and its designated representatives.
- c. "Respondent" shall mean Ruetgers-Nease Chemical Company, Inc., its successors and assigns.
- d. "The parties" shall mean U.S. EPA, OEPA and Respondent.
- e. The "Facility" or "Site" shall be the facility described in paragraph VI.A.
- f. "CERCLA" shall mean CERCLA as amended by SARA, 42 U.S.C. 9601 et seq.
- g. "past costs" shall mean costs incurred by U.S. EPA and OEPA prior to the effective date of this Consent Order.

#### IV. PARTIES BOUND

A. This Consent Order applies to and binds the following persons as defined in Section 101 (21) of CERCLA:

- (1) U.S. EPA, through the Regional Administrator, Region V;
- (2) OEPA, through the Director;
- (3) Respondent, Ruetgers - Nease Chemical Company, Inc. and any of its successors or assigns.

B. The undersigned representative of the U.S. EPA, OEPA and the Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Order and to execute and legally bind such party to this document.

C. Unless otherwise agreed to in writing by U.S. EPA and OEPA no change in ownership, corporate, or partnership status shall in any way alter the responsibility of the Respondent to

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U.S. EPA and OEPA under this Consent Order. The Respondent shall be responsible for carrying out all actions required of the Respondent by the terms and condition of this Consent Order.

#### V. STATEMENT OF PURPOSE

A. In entering into this Consent Order, the mutual objectives of the U.S. EPA, OEPA, and the Respondent are for the Respondent: (1) to conduct a remedial investigation (RI) to determine fully, the fact, nature and extent of any release or threatened release of hazardous substances, pollutants or contaminants at and/or from the Facility and (2) to perform a feasibility study (FS) to identify and evaluate alternatives for the appropriate extent of remedial action to achieve to comply with applicable or relevant and appropriate requirements, standards, limitations, criteria, or goals and/or to prevent or mitigate the migration or the release or threatened release of hazardous substances, pollutants, or contaminants from the Facility, in accordance with Section 121 of CERCLA.

B. The activities conducted pursuant to this Consent Order are subject to approval by U.S. EPA and OEPA as provided, shall employ sound scientific, engineering and construction practices and shall be consistent with the National Contingency Plan, 40 CFR Part § 300 as amended and CERCLA.

#### VI. FINDINGS OF FACT

Based upon information available on the effective date of this Consent Order, the Regional Administrator, ~~U.S. Environmental Protection Agency~~,  
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Region V, and the Director of OEPA make the following findings:

A. The Nease site is located approximately one-quarter mile northwest of the intersection of State Highway 14A and Allen Road, Columbiana County, Salem, Ohio. The Nease site has the approximate geographic coordinates  $40^{\circ} 54.9'N$  and  $80^{\circ} 53.5'W$ . The Facility is located in a rural area with light-industrial and residential properties and covers about 40 acres. It is bounded by small light-industrial operations along Allen Road to the east, residential homes to the immediate southwest, State Route 14A to the south, and wooded areas and pasture lands to the north. Site rainwater run-off migrates to the main surface water body in the area, the Middle Fork Little Beaver Creek, which flows northward and then southward to the Ohio River. The potable water supply for the area is provided by both the public water system and private wells. The small businesses along Allen Road currently receive drinking water from the City of Salem, although Dunlap Disposal uses well water for non-potable purposes. Residents living along State Route 14A, and further north on Allen Road and Goshen Road obtain their water from either city water or private wells. The City of Salem has a reservoir which draws its water from Cold Run Creek approximately 7 miles south of the Facility, however, in a different watershed than the site.

Human exposure, if any, to hazardous substances would most likely be via ingestion of drinking water from potentially contaminated groundwater supplies, exposure to contaminated

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surface water or sediments and their related pathways, and contaminated surface soils.

B. From 1961 until 1973, the Facility was owned and operated by Nease Chemical Company as a chemical manufacturing plant producing chemicals such as pesticides, fire retardants, household cleaning compounds and chemical intermediates used in agricultural, pharmaceutical and other chemical products. Some wastes from the plant processes were put into 55-gallon drums, which were buried on-site. Also, wastewaters were placed in unlined lagoons as part of wastewater treatment. In 1969, a pipeline was constructed to the Salem Wastewater Treatment Plant which received neutralized supernatant wastewater from an unlined lagoon. Following notification by OEPA of wastewater violations, Nease Chemical Company agreed in a Consent Judgment in 1973 to discontinue manufacturing operations at the site until such time as it obtained a new wastewater permit from OEPA. Instead, Nease decided to close the Facility. Nease neutralized and removed water in the various ponds to the City of Salem wastewater treatment plant and filled/graded several ponds by December 31, 1975. In addition, Nease removed production structures and facilities with the exception of a warehouse and two small block buildings.

On December 30, 1977, the assets of Nease Chemical Company were acquired and the company merged with Rutgers Chemicals, Inc. to form Ruetgers-Nease Chemical Company, Inc. Since 1982, the Respondent has cooperated with OEPA and has performed remedial

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action including removal and off-site disposal at a licensed hazardous waste facility with respect to a partial excavation of a pond, two other highly contaminated on-site areas, on-site drums, and a portion of the drainage ditch along the main railroad tracks which bisects the Facility. The Respondent also installed an underground tank for collection of on-site leachate, erected barriers to control sediments and surface water run-off, and fenced the southern half of the Facility divided by the railroad tracks.

In connection with the remedial action performed by Respondent and investigation and assessment of environmental conditions on-site and off-site, Respondent submitted to OEPA for review and comment, and also to U.S. EPA for informational purposes where indicated, the following plans and reports:

1. Manufacturing Chemistry for Products Produced at Salem dated July 9, 1982.
2. General Environmental Assessment Plan for Ruetgers-Nease Chemical Company, Inc. in Salem, Ohio (SMC Martin) dated September 10, 1982.
3. Environmental Assessment of the Ruetgers-Nease Chemical Company Site in Salem, Ohio, Detailed Plan (SMC Martin) dated October, 1982.
4. Environmental Assessment of the Ruetgers-Nease Chemical Company Site in Salem, Ohio Progress Report on Phase 2 and Phase 3 Activities dated January, 1983.

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5. Remedial Action Plan for the Ruetgers-Nease Chemical Company Site in Salem, Ohio (SMC Martin) original dated May 6, 1983, final submitted May 12, 1983.
6. Implementation Plan for the Ruetgers-Nease Chemical Company Site, Salem, Ohio (Safety Plan) dated July 25, 1983.
7. Hydrogeologic Report, Ruetgers-Nease Chemical Company, Inc., Salem, Ohio (SMC Martin) dated August 23, 1983 (copy of document also submitted to U.S. EPA).
8. Implementation Plan for the Assessment of Remediation of the Ruetgers-Nease Chemical Company, Inc. Site, Salem, Ohio revised September 1, 1983 (copy of document also submitted to U.S. EPA).
9. Status Report for the Ruetgers-Nease Chemical Company Site, Salem, Ohio dated November 30, 1983 (copy of document also submitted to U.S. EPA).
10. Report of Monitor Well Drilling of February, 1984 (SMC Martin) dated March 6, 1984.
11. Additional Well Drilling for Test Wells (SMC Martin) dated July 2, 1984.
12. Environmental Assessment of the Ruetgers-Nease Chemical Company, Inc. Salem, Ohio Site, Phase I Report (SMC Martin) submitted April 30, 1984, revised September 19, 1984 (copy of document also submitted to U.S. EPA).

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13. Environmental Assessment of the Ruetgers-Nease Chemical Company, Inc. Salem, Ohio Site, Phase 1B Report (SMC Martin) submitted July, 1985 (copy of document also submitted to U.S. EPA).
14. Pond 2 Boring Report dated April 3, 1986 (copy of document also submitted to U.S. EPA).
15. Risk Assessment for the Ruetgers-Nease Chemical Company Salem Facility, Salem, Ohio (Environ) dated September 15, 1986 (copy of document also submitted to U.S. EPA).
16. Groundwater Restoration System at Ruetgers-Nease Chemical Company, Inc., Salem, Ohio Site dated September 29, 1986 (copy of document also submitted to U.S. EPA).
17. Hydrogeologic Conditions at the Ruetgers-Nease Chemical Company Site, Salem, Ohio (SMC Martin) dated September, 1986 (copy of document also submitted to U.S. EPA).
18. Copy of Analytical Lab Sheets and Cards 1983-1986.

C. Respondent is the current owner of the Facility within the meaning of Section 101(20) of CERCLA, and is a liable person subject to the liability provisions of Section 107(a)(1) of CERCLA.

D. Based upon U.S. EPA, OEPA and Respondent investigations, hazardous substances as defined in Section 101(14) of CERCLA, are located at or about the Facility as follows

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E. The hazardous substances detected at the Facility are as follows for on-site soils and sludges:

1,1-dichloroethene	toluene
1,2-dichloroethene	chlorobenzene
chloroform	ethylbenzene
1,2-dichloroethane	o,m,p-xylene
1,1,1-trichloroethane	o,m,p-dichlorobenzene
1,2-dichloropropane	methoxychlor
1,3-dichloropropene	
trichloroethylene	
benzene	
1,1,2,2-tetrachloroethane	
1,1,2,2-tetrachloroethylene	

F. The hazardous substances detected off-site from the Facility are as follows for soils:

1,1-dichloroethene	toluene
1,2-dichloroethene	chlorobenzene
chloroform	ethylbenzene
1,2-dichloroethane	o,m,p-xylene
1,1,1-trichloroethane	o,m,p-dichlorobenzene
1,2-dichloropropane	methoxychlor
1,3-dichloropropene	
trichloroethylene	
benzene	
1,1,2,2-tetrachloroethane	
1,1,2,2-tetrachloroethylene	

G. The hazardous substances detected at the Facility are as follows for on-site surface water:

1,1-dichloroethene	toluene
1,2-dichloroethene	chlorobenzene
chloroform	ethylbenzene
1,2-dichloroethane	o,m,p-xylene
1,2-dichloropropane	o,m,p-dichlorobenzene
1,3-dichloropropene	methoxychlor
trichloroethylene	
benzene	
1,1,2,2-tetrachloroethane	
1,1,2,2-tetrachloroethylene	

H. The hazardous substances detected off-site from the Facility are as follows for surface water:

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1,1-dichloroethene	toluene
1,2-dichloroethene	chlorobenzene
chloroform	ethylbenzene
1,2-dichloroethane	o,m,p-xylene
1,1,1-trichloroethane	o,m,p-dichlorobenzene
1,2-dichloropropane	methoxychlor
1,3-dichloropropene	
trichloroethylene	
benzene	
1,1,2,2-tetrachloroethane	
1,1,2,2-tetrachloroethylene	

I. The hazardous substances detected at the Facility are as follows for on-site surface water sediments:

1,2-dichloroethene	toluene
1,2-dichloroethane	chlorobenzene
1,1,1-trichloroethane	ethylbenzene
1,2-dichloropropane	o,m,p-xylene
1,3-dichloropropene	o,m,p-dichlorobenzene
trichloroethylene	methoxychlor
benzene	
1,1,2,2-tetrachloroethane	
1,1,2,2-tetrachloroethylene	

J. The hazardous substances detected off-site from the Facility are as follows for surface water sediments:

1,1-dichloroethene	toluene
1,2-dichloroethene	chlorobenzene
chloroform	ethylbenzene
1,2-dichloroethane	o,m,p-xylene
1,1,1-trichloroethane	o,m,p-dichlorobenzene
1,2-dichloropropane	methoxychlor
1,3-dichloropropene	
trichloroethylene	
benzene	
1,1,2,2-tetrachloroethane	
1,1,2,2-tetrachloroethylene	

K. The hazardous substances detected at the Facility are as follows for on-site groundwater:

1,1-dichloroethene	toluene
1,2-dichloroethene	chlorobenzene
chloroform	ethylbenzene

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1,2-dichloroethane	o,m,p-xylene
1,1,1-trichloroethane	o,m,p-dichlorobenzene
1,2-dichloropropane	methoxychlor
1,3-dichloropropene	
trichloroethylene	
benzene	
1,1,2,2-tetrachloroethylene	
1,1,2,2-tetrachloroethane	

L. The hazardous substances detected off-site from the Facility are as follows for groundwater:

1,1-dichloroethene	toluene
1,2-dichloroethene	chlorobenzene
chloroform	ethylbenzene
1,2-dichloroethane	o,m,p-xylene
1,1,1-trichloroethane	o,m,p-dichlorobenzene
1,2-dichloropropane	methoxychlor
1,3-dichloropropene	
trichloroethylene	
benzene	
1,1,2,2-tetrachloroethane	
1,1,2,2-tetrachloroethylene	

M. The following hazardous materials were also detected on-site at the Facility and off-site from the Facility in some of the various matrices:

mirex	diphenyl sulfone
3,4-dichloronitrobenzene	

N. Based on results of Respondent and OEPA investigations and taking into account such factors as populations at risk, the potential of hazardous substances being present, the potential for contamination of drinking water supplies and the destruction of sensitive ecosystems, the Facility was placed on the National Priorities List ("NPL") by U.S. EPA on September 30, 1983, pursuant to Section 105 of CERCLA, as amended.

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VII. CONCLUSIONS OF LAW

Based upon information available on the effective date of this Consent Order the Regional Administrator of U.S. EPA, Region V, and the Director of OEPA make the following conclusions of law:

A. The Nease Chemical site is a "facility" as defined in Section 101 (9) of CERCLA, as amended.

B. From approximately January, 1961 until on or about July, 1973, in connection with the operation of Nease Chemical Company "hazardous substances" as defined in Section 101 (14) of CERCLA, and industrial wastes and other wastes as defined 6111.01 of the ORC, were deposited, stored, disposed of, placed, or located at the Facility.

C. The Respondent is a "person" as defined in Section 101 (21) of CERCLA, and Section 3734.01 of the ORC.

D. The Respondent is an "owner" of the Facility within the meaning of Section 107 (a) of CERCLA.

E. The Respondent as the owner of the Facility is a person subject to the liability provisions of Section 104 of CERCLA, and a potentially responsible party for the purposes of Section 122 of CERCLA, for the reasons set forth in Paragraph V of this Consent Order.

F. The past, present or potential migration of hazardous substances from the Facility constitutes an actual or threatened

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"release" into the environment as that term is used in Section 122 of CERCLA, and constitutes a "discharge" into the "waters of the state" as those terms are defined in Section 6111.01 of the ORC.

#### VIII. DETERMINATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, the Regional Administrator of U.S. EPA, Region V and the Director of OEPA have determined that:

A. Respondent is qualified to conduct a Remedial Investigation and Feasibility Study ("RI/FS") within the meaning of Section 104(a) of the Superfund Amendments and Reauthorization Act of 1986.

B. Respondent will promptly and properly take appropriate response action at the Facility by conducting a remedial investigation and feasibility study (RI/FS); and

C. The actions required by this Consent Order are in the public interest and are consistent with the National Contingency Plan, 40 CFR Part 300, and CERCLA.

#### IX. WORK TO BE PERFORMED

A. All work to be performed by the Respondent pursuant to this Consent Order shall be under the direction and supervision of a qualified professional engineer or certified geologist. Prior to the initiation of work at the Facility, the Respondent shall notify the U.S. EPA and OEPA, in writing, of the name,

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title, and qualifications of the proposed engineer or geologist, and of the names of principal contractors and/or subcontractors proposed to be used in carrying out the work to be performed pursuant to this Consent Order. Selection of any such engineer or geologist or contractor and/or subcontractor shall be subject to approval by U.S. EPA and OEPA. U.S. EPA and OEPA shall provide Respondent written notification of its determination regarding any such selection. If selection of any such engineer, geologist, contractor and/or subcontractor is not approved, written notification shall be given explaining the reasons for U.S. EPA's and OEPA's conclusion.

B. Attachment I to this Consent Order provides a Statement of Work (SOW) for the completion of a Remedial Investigation and Feasibility Study (RI/FS) which is incorporated into and made a part of this Consent Order. In the event of any conflict between any provisions of this Consent Order and the SOW, this Consent Order shall control in resolving the conflict.

C. The following work shall be performed:

1. Within sixty (60) calendar days of the effective date of this Consent Order, the Respondent shall submit a work plan to the U.S. EPA and OEPA to conduct a Remedial Investigation and Feasibility Study (hereinafter RI/FS Work Plan). The RI/FS Work Plan shall be developed in conformance with the SOW and with U.S. EPA "Guidance on Remedial Investigation Under CERCLA", dated May 1985, as amended (the RI Guidance), and U.S. EPA

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"Guidance on Feasibility Study Under CERCLA, dated April 1985, as amended (the "FS Guidance") and any additional guidance documents provided by U.S. EPA and OEPA which are not inconsistent with the NCP and CERCLA. OEPA and U.S. EPA will promptly provide copies of all applicable guidance documents.

2. The RI/FS Work Plan submittal shall include, but not be limited to, the following project plans: (1) a sampling plan; (2) a health and safety plan; (3) a plan for satisfaction of permitting requirements; (4) a quality assurance project plan (QAPP); and (5) a schedule for implementation of the RI/FS Work Plan. The RI/FS Work Plan shall provide, at a minimum, for the submittal of a draft and final Remedial Investigation Report, to be prepared in accordance with the RI Guidance, and a draft and final Feasibility Study Report, to be prepared in accordance with the FS Guidance, although U.S. EPA and OEPA will propose and select any final remedial actions using the final Feasibility Study Report.

3. No later than twenty-one (21) days prior to submission of the RI/FS Work Plan, Respondent's project coordinators and laboratory person responsible for analytical work shall meet with the U.S. EPA, Region V Office of Quality Assurance and the Remedial Project Manager (RPM) and the OEPA Project Coordinator to review the requirements of the QAPP portion of the Work Plan. The RI/FS Work Plan shall be subject to review, modification, and approval by the U.S. EPA and OEPA. U.S. EPA and OEPA shall

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notify the Respondent in writing of approval or disapproval or required modifications of the RI/FS Work Plan, or any parts thereof specifying deficiencies in the event of any disapproval.

4. Within forty-five (45) calendar days of receipt of any U.S. EPA and/or OEPA RI/FS Work Plan disapproval, the Respondents shall submit a revised RI/FS Work Plan to the U.S. EPA and OEPA which incorporates the U.S. EPA and/or OEPA modifications specifically required to be incorporated by U.S. EPA and/or OEPA and is responsive to all other U.S. EPA and/or OEPA comments.

5. In the event of subsequent U.S. EPA and/or OEPA disapproval of the RI/FS Work Plan, the U.S. EPA and OEPA retain the right to conduct a complete RI/FS and/or to enforce the terms of this Consent Order.

6. The Respondent shall proceed in accordance with the approved schedule in this Consent Order promptly to implement the work detailed in the RI/FS Work Plan if and when the RI/FS Work Plan is fully approved by the U.S. EPA and OEPA. Unless otherwise directed by U.S. EPA and OEPA, Respondent shall not commence field activities until approval by U.S. EPA and OEPA of the RI/FS Work Plan. The fully approved RI/FS Work Plan shall be deemed incorporated into and made an enforceable part of this Consent Order. All work shall be conducted in accordance with CERCLA, National Contingency Plan, the RI Guidance and the FS Guidance and the requirements of this Consent Order, including

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the standards, specifications, and schedule (as modified or extended pursuant to Paragraph XIX of this Order) contained in the RI/FS Work Plan.

#### X. PLANS AND REPORTS

A. The Respondent shall provide a draft and a final Remedial Investigation Report which shall include an Endangerment Assessment prepared by or on behalf of Respondent, and a draft and a final Feasibility Study Report, and any other plans or reports (i.e. technical memorandum) required by the RI/FS Work Plan, according to the schedule contained in the RI/FS Work Plan and Consent Order.

1. The draft Remedial Investigation Report shall be due within three hundred sixty (360) calendar days from receipt of U.S. EPA's and OEPA's approval of the RI/FS Work Plan submitted by the Respondent.

2. The final Remedial Investigation Report shall be due within thirty (30) days after receipt of approval by U.S. EPA and OEPA of the draft RI Report by the Respondent.

3. The draft Feasibility Study shall be due within one hundred twenty (120) days after submission of the final RI Report.

4. The final Feasibility Study Report shall be due within thirty (30) days from receipt of U.S. EPA's and OEPA's approval of the draft FS Report by the Respondent.

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5. Respondent shall submit these reports to U.S. EPA and OEPA simultaneously.

B. The U.S. EPA and OEPA shall review and approve any draft or final plans or reports, and, if necessary, shall specify, in writing, any modifications or additions which must be made prior to approval of any such reports. Approval or disapproval shall be consistent with CERCLA and the National Contingency Plan (NCP).

C. If the U.S. EPA and/or OEPA disapprove any draft or final plan or report, the Respondent shall submit a revised plan or report to the U.S. EPA and OEPA within thirty (30) days, or such longer period as U.S. EPA and OEPA may establish, in writing, which extension shall not be arbitrarily or unreasonably withheld, which plan or report shall incorporate any U.S. EPA and OEPA modifications or additions in a manner acceptable to U.S. EPA and OEPA.

D. In the event of subsequent disapproval of any revised plan or report, the U.S. EPA and OEPA retain the right to perform additional studies, to conduct a complete RI/FS, and/or to enforce the terms of this Consent Order.

E. The Respondent shall provide monthly written progress reports to the U.S. EPA and OEPA according to the schedule contained in the RI/FS Work Plan. At a minimum, these monthly written progress reports shall include the following:

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1. A description of the action which has been taken during the month toward achieving compliance with this Consent Order;

2. All results of sampling and tests and all other raw data produced during the month and received by the Respondent;

3. All plans and procedures completed during the past month, a description of any variations from the approved RI-Work Plan, as well as such data, plans and a description of all actions which are scheduled for the next month; and

4. Target and actual completion dates for each activity specified in the SOW schedule and in the Consent Order including the project completion, and an explanation of any deviation from the schedules in the SOW schedule and this Consent Order.

5. Changes in personnel during the month.

6. A description of difficulties encountered in performing work during the reporting period and of actions taken or being taken to rectify problems.

F. The monthly written progress reports shall be submitted to the U.S. EPA and OEPA by the tenth (10) calendar day of each month following the date of commencement of the work detailed in the RI/FS Work Plan.

#### XI PLAN REVIEW AND APPROVAL

Where U.S. EPA and OEPA have authority to review, approve or require modifications of plans, reports and other submissions

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by Respondent, such reviews, approvals, or modification shall be consistent with CERCLA, shall not be arbitrary or capricious and shall otherwise be in accordance with applicable law.

XII. ADDRESS FOR ALL CORRESPONDENCE

Documents, including reports, approvals, disapprovals and other correspondence, to be submitted pursuant to this Consent Order, shall be sent by certified mail to the following addresses, or to such other addresses as the Respondent, OEPA or the U.S. EPA hereafter may designate in writing:

- A. Documents to be submitted to the U.S. EPA should be sent to:

U.S. Environmental Protection Agency  
Region V  
Hazardous Waste Enforcement Branch  
230 South Dearborn Street (5HE-12)  
Chicago, Illinois 60604  
Attn: Daniel Bicknell, Nease Chemical RPM

- B. Documents to be submitted to the OEPA should be sent to:

Ohio Environmental Protection Agency  
Division of Solid and Hazardous Waste Management  
Northeast District Office  
2110 Aurora Road  
Twinsburg, Ohio 44087

Attn: Rodney Beals

and

Ohio Environmental Protection Agency  
Corrective Actions Section  
Division of Solid and Hazardous Waste Management  
P.O. Box 1049  
1800 WaterMark Drive  
Columbus, Ohio 43266-1049

Attn: Supervisor Technical Support Unit

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- C. Documents to be submitted to the Respondent should be sent to:

Steven W. Foard  
Manager of Environmental Services  
Ruetgers-Nease Chemical Co., Inc.  
201 Struble Road  
State College, PA 16801

- D. In addition to sending copies to the person designated in C. above, copies of any legal communications or notices from U.S. EPA and/or OEPA and copies of all communications from U.S. EPA's and/or OEPA's legal counsel to Respondent should also be sent to the following:

Dechert Price & Rhoads  
Attn: William J. Kennedy, Esquire  
3400 Centre Square West  
1500 Market Street  
Philadelphia, PA 19102

#### XIII. ADDITIONAL WORK

- A. In the event that the U.S. EPA and OEPA or the Respondent determine that additional work, including remedial investigatory work and/or engineering evaluation, is necessary to accomplish the objectives of the RI/FS, U.S. EPA and OEPA shall specify in writing the reasons why such additional work is necessary and a schedule for completion; provided, however, that any such work should be consistent with the NCP, CERCLA, and Ohio State law and not arbitrary or capricious. If Respondent does not agree to perform additional work specified by U.S. EPA and OEPA, the dispute shall be resolved pursuant to Paragraph XXI of this Consent Order.

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B. Any additional work determined to be necessary by the Respondent shall be subject to approval by the U.S. EPA and OEPA.

C. Any additional work determined to be necessary by the Respondent and approved by the U.S. EPA and OEPA or determined to be necessary by the U.S. EPA or OEPA shall be completed by Respondent in accordance with the standards, specifications, and schedule determined or approved by the U.S. EPA and OEPA, except in the event that Respondent has invoked the dispute resolution provisions of Paragraph XXI under Subparagraph A above.

#### XIV. COMPLIANCE WITH APPLICABLE LAWS

All work undertaken by the Respondent pursuant to this Consent Order shall be performed in compliance with all applicable Federal and State laws and regulations, including all Occupational Health and Safety Administration and Department of Transportation regulations. The Respondent shall be responsible for obtaining all Federal, State or local permits which are necessary for the performance of any work hereunder. U.S. EPA and OEPA will use their best efforts to promptly determine and notify the Respondent of their decision with respect to any such state or federal permits.

#### XV. ACCESS

A. To the extent that the Facility or other areas where work is to be performed hereunder is owned by parties other

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than those bound by this Consent Order, the Respondent shall use its best efforts to obtain access agreements necessary for implementation and oversight of the work from the present owners within sixty (60) calendar days of the effective date of this Consent Order. Such agreements shall provide access for the U.S. EPA, OEPA and authorized representatives of the U.S. EPA and OEPA as specified below. In the event that such access agreements are not obtained within the time referenced above, the Respondent shall so notify the U.S. EPA and OEPA, and U.S. EPA and OEPA will contact landowners in connection with Respondent's efforts to obtain such access and will consider use of their applicable statutory authority to assist Respondent in obtaining such access. Any delay or denial of access shall be subject to the provisions of Paragraph XIX. If access can not be obtained and such failure to obtain access materially affects the ability of the Respondents to perform the work at the site and/or U.S. EPA and OEPA to conduct actions in XV (B) of this Consent Order, this Consent Order, at the option of U.S. EPA and OEPA shall terminate and be of no further force or effect.

B. Authorized representatives of the U.S. EPA and OEPA shall be allowed access at all reasonable times to the Facility and other areas consistent with their authorities under CERCLA and equivalent state authorities for purposes including but not limited to, inter alia: inspecting records, operating logs, and contracts related to the Facility; reviewing the progress of

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the Respondent in carrying out the terms of this Consent Order; conducting such tests, inspections, and sampling as the U.S. EPA and OEPA may deem to be necessary; using a camera, sound recording, or other documentary type equipment; and verifying the data submitted to the U.S. EPA or OEPA by the Respondent hereunder. All authorized representatives of U.S. EPA and OEPA entering the site shall identify themselves to Respondent's Project Coordinator or representatives. The Respondent shall permit such authorized representatives of U.S. EPA or OEPA to inspect and copy all records, files, photographs, documents, and other writings, including all sampling and monitoring data, which pertain to this Consent Order. If Respondent claims a privilege under Paragraph XVII. C. below with respect to any such document, Respondent shall identify the document and state the basis for such claim of privilege. All persons with access to the Facility pursuant to the Consent Order shall comply with applicable health and safety plans.

C. Nothing herein shall be construed as restricting the inspection or access authority of U.S. EPA or the OEPA under any law or regulation.

#### XVI. PROJECT COORDINATORS

A. On or before the effective date of this Consent Order, the U.S. EPA, OEPA and the Respondent shall each designate a Project Coordinator and an alternate. The signatories shall

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notify each other, in writing of the name, address and telephone number of the designated Project Coordinator. Each Project Coordinator shall be responsible for overseeing the implementation of this Consent Order. The U.S. EPA Project Coordinator will be the U.S. EPA designated representative at the Facility. The OEPA Coordinator will be the OEPA designated representative at the Facility. To the maximum extent possible, except as specifically provided in this Consent Order, communications between the Respondent, OEPA, and the U.S. EPA, and all documents, reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Consent Order, shall be communicated through the Project Coordinators. During implementation of the RI/FS Work Plan, the Project Coordinators shall, whenever possible, operate by consensus, and shall attempt in good faith to resolve disputes informally through discussion of the issues.

B. The U.S. EPA, OEPA and the Respondent shall each have the right to change their respective Project Coordinator. Such a change shall be accomplished by notifying the other party in writing at least five (5) business days prior to the change.

C. The U.S. EPA Project Coordinator shall have the authority vested in an On-Scene Coordinator and a Remedial Project Manager (OSC, RPM) by the National Contingency Plan, 40 CFR Part 300, as amended, including the authority as provided therein to halt, conduct, or direct any work required by this Consent Order, or

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to direct any response action undertaken by the U.S. EPA when conditions at the Facility may present an imminent and substantial endangerment to the public health or welfare or the environment. In the event that the U.S. EPA Project Coordinator halts work pursuant to this paragraph, the Respondent may request a modification of the schedule or work described in the RI/FS Work Plan and this Consent Order. The U.S. EPA Project Coordinator's actions shall, at all times be controlled and limited by the provisions of the National Contingency Plan, 400 C.F.R. Part 300.

D. Without limitation of their statutory or regulating authority the U.S. EPA and OEPA Project Coordinators shall have at least the authority to: (1) take split samples or direct the type, quantity and location of samples to be taken by the Respondent in accordance with the provisions of this Consent Order and consistent with the Work Plan; (2) direct that work stop whenever they determine that activities at the Facility may create a present danger to public health or welfare or the environment; (3) observe, take photographs and make such other reports on the progress of the work as the Project Coordinator deems appropriate; and (4) consistent with the provisions of XV B, review records, files and documents relevant to the Consent Order.

E. The absence of the U.S. EPA or OEPA Project Coordinator from the Facility shall not be cause for stoppage of work.

F. The Project Coordinator or alternate for Respondent shall be on-site during all hours of field work and shall be

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on call for the pendency of this Consent Order.

XVII. SAMPLING AND DATA/DOCUMENT AVAILABILITY

A. The Respondent shall make the results of all sampling and/or tests or other data generated by the Respondent, or on behalf of the Respondent, pursuant to implementation of this Consent Order, available to the U.S. EPA and OEPA and shall submit these results in written monthly progress reports as required by Paragraph X of this Consent Order. U.S. EPA and OEPA shall also make available to Respondent the results of all other samples and/or test and/or data taken, collected or generated by or on behalf of U.S. EPA or OEPA at any time that are relevant to the Facility or to any matter to be investigated, studied or included in the RI/FS.

B. At the request of the U.S. EPA or OEPA, the Respondent shall provide split or duplicate samples to the U.S. EPA or OEPA of any samples collected by the Respondent pursuant to the implementation of this Consent Order. The Respondent pursuant to Section 104(e)(4)(B) of CERCLA may request and U.S. EPA and/or OEPA shall provide split or duplicate samples to the Respondent. Nothing herein shall be deemed a waiver by the Respondent of any rights it may have under any other applicable law to obtain split or duplicate samples from OEPA or U.S. EPA. The Respondent shall notify the U.S. EPA and OEPA at least ten (10) business days in advance with a three (3) business day confirmation call before any sample collection activity.

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C. Pursuant to applicable Federal laws and regulations, including, but not limited to Section 104(e) of CERCLA, as amended, and 40 CFR Part 2, the Respondent may assert a confidentiality claim with respect to any or all of the information requested, or to be submitted pursuant to the terms of this Consent Order. Such an assertion must be adequately substantiated when the assertion is made. Analytical data and other information described in Section 104(e) (7)(F) of CERCLA, as amended, and Rule 3745-49-03 of the OAC shall not be claimed as confidential by the Respondent. Information determined to be confidential by the U.S. EPA in accordance with applicable Federal laws and regulations will be afforded the full protection provided by such laws and regulations. Information determined to be confidential by OEPA pursuant to applicable laws and regulations will be afforded the full protection provided by such laws and regulations. Nothing herein constitutes a waiver of any right Respondent may have under applicable federal law to challenge or appeal from such confidentiality determinations by U.S. EPA or OEPA. If no confidentiality claim accompanies information when it is submitted to the U.S. EPA or OEPA, or if information claimed as confidential is determined by the U.S. EPA or OEPA not to be confidential, the information may be made available to the public by the U.S. EPA or OEPA.

#### XVIII. QUALITY ASSURANCE

A. The Respondent shall use quality assurance, quality control, and chain of custody procedures in accordance with

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U.S. EPA "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans QAMS-005-80" (U.S. EPA, 1980c) throughout all data collection activities. Respondent also will be permitted to include relevant data, information and analyses generated prior to the date of this Consent Order, identified as such, when U.S. EPA and OEPA are satisfied that such data, information and analyses are sufficiently reliable to be used for the purpose for which it is included. Such decision as U.S. EPA and OEPA make concerning this paragraph on what prior generated data, information and analyses will be included shall not be subject to the disputes resolution under Paragraph XXI.

B. The Respondent shall consult with the U.S. EPA and OEPA Project Coordinators in preparation of the QAPP, as provided in Paragraph IX. C.3., in planning for, and prior to, all sampling and analysis as detailed in the RI/FS Work Plan. In order to provide quality assurance and maintain quality control with respect to all samples collected pursuant to this Consent Order, the Respondent shall:

1. Require that U.S. EPA and OEPA personnel and/or U.S. EPA and OEPA authorized representatives are allowed access during business hours to the laboratory(ies) and personnel utilized by the Respondent for analyses; and

2. Require that all sampling and analyses are performed according to U.S. EPA methods or other methods deemed satisfactory by U.S. EPA and OEPA; and

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3. Require that laboratory(ies) utilized by the Respondent for analyses participate in a U.S. EPA quality assurance/quality control program equivalent to that which is followed by U.S. EPA, and which is consistent with U.S. EPA document QAMS-005/80. As part of such a program, and upon request by the U.S. EPA and/or OEPA, such laboratories shall perform analyses of samples provided by U.S. EPA or OEPA to demonstrate the quality of analytical data for each such laboratory.

#### XIX. FORCE MAJEURE

A. The Respondent shall cause all work to be performed within the time limits set forth in the schedule in the Consent Order and Work Plan, unless performance is delayed by events which constitute a force majeure. For purposes of this Consent Order, a "force majeure" is an event arising from circumstances beyond the control of the Respondent which could not be prevented or cured by the exercise of due diligence which delays performance of any obligations required by this Consent Order. Increases of costs shall not be considered circumstances beyond the control of the Respondent.

B. The Respondent shall notify the U.S. EPA Project Coordinator and OEPA Project Coordinator orally within two (2) business days and in writing no later than five (5) business days after any event which the Respondent contends is a force majeure. Each notification shall describe to the extent known the expected

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length of the delay, the cause or causes of the delay, the measures taken and to be taken by the Respondent to minimize the delay, and the timetable by which these measures will be implemented. The Respondent shall have the burden of demonstrating that the event is a "force majeure".

C. If the U.S. EPA and OPEA agree that a delay is attributable to a force majeure, the time period for performance under this Consent Order may be extended for the time period attributable to the event constituting the force majeure. In the event that U.S. EPA or OEPA do not agree that any delay in compliance with the requirements of this Consent Order has been or is anticipated to be caused by circumstances beyond the control of Respondent in the exercise of due diligence or that Respondent is entitled to an extension of time in the amount that Respondent claims is attributable to the event, the dispute shall be resolved in accordance with the provisions of Paragraph XXI of this Consent Order.

#### XX. STIPULATED PENALTIES

A. Respondent shall be liable for payment into the Hazardous Substances Superfund administered by U.S. EPA the sums set forth below as stipulated penalties for each week or part thereof that Respondent fails to submit a report or document or comply with a schedule in accordance with the requirements contained in this Consent Order. Such sums shall be due and payable within fifteen

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(15) day of receipt of written notification from U.S. EPA assessing the penalties. These stipulated penalties shall accrue in the amount of \$500.00 for each of the first two (2) weeks or part thereof, and \$700.00 for each day thereafter.

B. The stipulated penalties set forth in paragraph A of this section shall not preclude U.S. EPA or OEPA from electing to pursue any other remedy or sanction because of Respondent's failure to comply with any of the terms of this Consent Order, including a suit to enforce the terms of this Consent Order. Said stipulated penalties shall not preclude U.S. EPA from seeking statutory penalties up to the amount authorized by law in the event of Respondent's failure to comply with any requirements of this Consent Order.

C. This Paragraph shall not be subject to the dispute resolution process under Paragraph XXI below.

XXI. DISPUTE RESOLUTION

A. The parties shall negotiate in good faith to resolve all disputes or differences of opinion informally. If, however, disputes arise concerning this Consent Order which the parties are unable to resolve informally, the Respondent shall immediately notify U.S. EPA and OEPA orally of the objection and within ten (10) business days present a written notice of such dispute to U.S. EPA and OEPA, which shall set forth specific points of dispute, the position of the Respondent and the technical or legal

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basis therefor, and any actions which the Respondent considers necessary.

B. Within ten (10) business days of receipt of such a written notice, the U.S. EPA and OEPA shall provide a written response to the Respondent setting forth the position and the technical or legal basis therefor. During the five (5) business days following receipt of the response, the U.S. EPA, OEPA and the Respondent shall attempt to negotiate in good faith a resolution of their differences.

C. Following the expiration of the time periods described in Paragraph B above, if U.S. EPA and OEPA concur with the position of the Respondent, the Respondent will be notified and this Consent Order will be modified to include any necessary extensions of time or variances of work or other relief requested by Respondent. If U.S. EPA and OEPA do not concur with the position of the Respondent, U.S. EPA and OEPA will resolve the dispute in favor of U.S. EPA and OEPA in a manner that is not arbitrary or capricious and that is consistent with the NCP and CERCLA, consistent with the goals of this Consent Order, and shall within 10 business days provide written notification of such resolution to the Respondent.

D. The pendency of dispute resolution set forth in this Section shall not affect the time period for completion of work and/or obligations to be performed under this Consent Order, except that upon mutual agreement of all parties, any time period

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may be extended. Generally any extension shall not exceed the actual time taken to resolve the dispute. Such an agreement shall not unreasonably be withheld. Elements of work and/or obligations not affected by the dispute shall be completed in accordance with the schedule contained in the SOW.

E. Upon resolution of any dispute, whether informally or using the procedures in this Section, any additions or modifications required as a result of such dispute resolution shall immediately be incorporated, if necessary, into the appropriate plan or procedure and into the Consent Order. The Respondent shall proceed with all remaining work according to the modified plan or procedure.

#### XXII. COMMUNITY RELATIONS AND PUBLIC COMMENT

The Respondent shall cooperate with U.S. EPA and OEPA in providing RI/FS information to the public. As requested by U.S. EPA and OEPA, the Respondent shall provide the necessary information for the preparation of all appropriate information disseminated to the public, and may, if requested, participate in public meetings, which may be held or sponsored by U.S. EPA and OEPA, to explain activities at or concerning the Facility, including the findings of the RI/FS. Respondent will be notified in advance of all such public meetings.

#### XXIII. RECORD PRESERVATION

The Respondent agrees to preserve, during the pendency of this

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Consent Order, and for a minimum of ten (10) years after termination of this Consent Order, all records and documents in the possession of the Respondent, or in the possession of division, employees or agents of the Respondent, which relate to the RI/FS. Upon request by the U.S. EPA or OEPA, the Respondent shall make available to U.S. EPA and OEPA such records, or copies of any such records, subject to Paragraph XVII. C. Respondent also agrees to request its accountants, attorneys or independent contractors to preserve or make available for inspection and copying to U.S. EPA and/or OEPA all non-privileged documents which relate to actions performed under this Consent Order subject to the same terms and conditions as are applicable to documents in Respondent's possession, as provided in this Paragraph, subject to Paragraph XVII. C.

#### XXIV. CERCLA FUNDING

A. The Respondent waives any claims or demands for compensation or payment under Sections 111 and 112 of CERCLA, as amended, against the United States or the Hazardous Substance Superfund established by Section 221 of CERCLA, as amended, for or arising out any activity performed or expenses incurred pursuant to this Consent Order.

B. This Consent Order does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA, as amended.

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XXV. RESERVATION OF RIGHTS

A. Except as otherwise agreed herein, the U.S. EPA, OEPA and Respondent each reserve all rights and defenses that they may have pursuant to any available legal authority.

B. Nothing herein shall waive the right of the U.S. EPA to enforce this Consent Order, or to take action pursuant to Section 104, 106(a) and 107 of CERCLA, as amended. Nothing herein shall waive the right of OEPA to enforce this Consent Order, or to take action pursuant to CERCLA, as amended, or applicable State law. The U.S. EPA and OEPA reserve the right to take any enforcement action pursuant to CERCLA, as amended, and/or any available legal authority, including the right to seek injunctive relief, monetary penalties, and punitive damages. In addition, the U.S. EPA reserves the right to undertake any remedial investigation/feasibility study work, and/or any removal, remedial and/or response actions relating to the Facility, and to seek recovery from the Respondent for any costs incurred in undertaking such actions, except as otherwise covered in Paragraph XXX.

C. U.S. EPA and OEPA reserve the right to seek reimbursement for past response costs associated with the Facility, which are deferred and not addressed in this Consent Order.

D. Nothing herein is intended to release, discharge, or in any way affect any claims, causes of action or demands in law or equity which the parties may have against any person,

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firm, partnership or corporation not a party to this Consent Order for any liability it may have arising out of, or relating in any way to, the generation, storage, treatment, handling, transportation, release or disposal of any materials, hazardous substances, hazardous wastes, contaminants, or pollutants at, to, or from the Facility. The parties to this Consent Order expressly reserve all rights, claims, demands, and causes of action they have against any and all other persons and entities who are not parties to this Consent Order, and as to each other for matters not covered hereby.

E. The U.S. EPA and OEPA recognize that the Respondent may have the right to seek contribution, indemnity and/or any other available remedy against any person found to be responsible or liable for contributions, indemnity or otherwise for any amounts which have been or will be expended by the Respondent in connection with the Facility.

F. Nothing herein shall be construed to release the Respondent from any liability for failure of the Respondent to perform the RI/FS in accordance with the RI/FS Work Plan. The parties further expressly recognize that this Consent Order and the successful completion and approval of the RI/FS do not represent satisfaction, waiver, release, or covenant not to sue, of any claim of the United States or the State of Ohio against the Respondent relating to the Facility (including but not limited to claims to require Respondent to undertake further

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response actions and claims to seek reimbursement of response costs pursuant to Section 107 of CERCLA, as amended), other than those matters covered in the Covenant Not To Sue set forth in Paragraph XXX of this Consent Order.

G. Nothing herein is intended to be a release or settlement of any claim for personal injury or property damage between the parties to this Consent Order or by any person not a party to this Consent Order.

H. Nothing in this Consent Order is intended by the parties to be an admission of law or fact by the Respondent.

XXVI. REIMBURSEMENT OF COSTS

A. At the end of each twelve (12) month period beginning with the effective date of this Consent Order, the U.S. EPA and OEPA shall submit an accounting to the Respondent of all oversight costs incurred by the U.S. EPA and OEPA with respect to this Consent Order during the previous twelve (12) month period including, but not limited to, the costs incurred by the U.S. EPA and OEPA in having a qualified person oversee the conduct of this RI/FS pursuant to Section 104(a) of CERCLA, as amended. Subject to the dispute resolution provision of Paragraph XXI of this Consent Order, within thirty (30) calendar days of receipt of each such tabulation, the Respondent shall remit a check to the U.S. EPA and/or the OEPA for the amount of their respective costs.

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B. Payment to the U.S. EPA for response and oversight costs incurred by the U.S. EPA shall be made to the order of the Hazardous Substance Superfund and forwarded to the U.S. EPA, Superfund Accounting, P.O. Box 371003M, Pittsburgh, Pennsylvania 15251, Attn: Superfund Collection Office. Written notice and copies of all payments to the U.S. EPA shall be provided at the time of such payments to the U.S. EPA Project Coordinator and to: U.S. EPA, Region V, SWER Branch, Attention: Ms. Isalee Coleman, Office of Regional Counsel, 5CS-16, 230 South Dearborn Street, Chicago, Illinois 60604.

C. Payment to the OEPA for response and oversight costs incurred by the OEPA shall be payable to "Treasurer, State of Ohio" and forwarded to: Counsel for the Director of the Environmental Protection Agency, 1800 Water Mark, P.O. Box 1049, Columbus, Ohio 43266-1049. Written notice and a copy of the transmittal letter and check shall be sent to the OEPA Project Coordinator.

D. The U.S. EPA and OEPA reserve the right to bring an action against the Respondent for recovery of any past and future costs incurred by the United States or the State of Ohio in connection with any response activities conducted or to be conducted at the Facility, other than those response activities completed pursuant to this Consent Order to the satisfaction and approval of the U.S. EPA and OEPA.

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XXVII. INDEMNIFICATION OF THE UNITED STATES  
AND THE STATE OF OHIO

A. Unless otherwise provided under applicable federal,

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state, and common law, the Respondent agrees to indemnify and save and hold the United States Government and the State of Ohio Government, their agencies, departments, agents, and employees, harmless from any and all claims or causes of action arising from, or on account of, acts or omissions of the Respondent, its officers, employees, receivers, trustees, agents, or assigns, in carrying out the activities pursuant to this Consent Order.

B. Neither the U.S. EPA nor OEPA is a party to any contract between the Respondent and any of its contractors at the Facility.

C. U.S. EPA and OEPA agree to provide notice to Respondent within ten (10) days of receipt of any claim which may be the subject of the indemnity in Paragraph A above.

D. Unless otherwise provided under applicable federal, state and common law, nothing in this Consent Order shall render Respondent liable for any act or omission of U.S. EPA or OEPA.

XXVIII. DEED NOTICE, LAND USE AND CONVEYANCE OF TITLE

The Respondent shall assure that no portion of the Facility will be used in any manner which would adversely affect the integrity of any containment or monitoring system installed pursuant to this Consent Order. The Respondent shall have this restriction noted in the title.

The Respondent shall assure that no conveyance of title, easement or other interest in any portion of the Facility shall

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be consummated without adequate assurance and provision for continued operations and maintenance of any containment or monitoring system installed pursuant to this Consent Order. The Respondent shall notify U.S. EPA and OEPA by registered mail at least thirty (30) calendar days prior to any conveyance or of an intent to convey any interest in land or any part thereof which comprises the Facility and of the assurance and provisions made for continued maintenance of the leachate collection system installed by the Respondent to collect on-site leachate seeps.

XXIX. PUBLIC COMMENT AND EFFECTIVE DATE  
OF ADMINISTRATIVE ORDER

Within fifteen (15) calendar days of the date of the execution of this Consent Order, the U.S. EPA shall announce the availability of this Consent Order to the public for review and comment. The U.S. EPA shall accept comments from the public for a thirty (30) calendar day period after such announcement. At the end of the comment period, the U.S. EPA and OEPA shall review all such comments and shall either:

- a) determine that the Consent Order should be made effective in its present form, in which case the U.S. EPA and OEPA Project Coordinators shall so notify the Respondent in writing, and the Consent Order shall become effective on the date the Respondent receives such notification; or
- b) determine that modification of the Consent Order

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is necessary, in which case the U.S. EPA and OEPA Project Coordinators will inform the Respondent as to the nature of all required changes. If the Respondent agrees to the modifications, the Consent Order shall be so modified and shall become effective upon signature of the U.S. EPA, subsequent to signature by Respondent, followed by signature by OEPA.

In the event that the Respondent does not agree to modifications required by the U.S. EPA and OEPA as a result of public comment, this Consent Order may be withdrawn by the U.S. EPA and OEPA. In such an event, the U.S. EPA and OEPA reserve all rights to take such actions as they deem necessary.

XXX. COVENANT NOT TO SUE

Upon and after termination of this Consent Order pursuant to provisions of Paragraph XXXII of this Consent Order, U.S. EPA and OEPA covenants not to sue Respondent regarding work satisfactorily performed by Respondent hereunder or claims of the U.S. EPA and OEPA for costs and penalties against the Respondent satisfied by payment of such costs and penalties under the provisions of this Consent Order. Nothing herein shall be deemed to grant any rights to persons not a party to this Consent Order, and U.S. EPA, OEPA and Respondent reserve all rights against such persons.

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XXXI. SUBSEQUENT AMENDMENT

This Consent Order may be amended by mutual agreement of the U.S. EPA, OEPA and the Respondent. Any amendment of this Consent Order shall be in writing, signed by the U.S. EPA, OEPA and Respondent, and shall have as the effective date that date on which such amendment is signed by the U.S. EPA.

XXXII. TERMINATION AND SATISFACTION

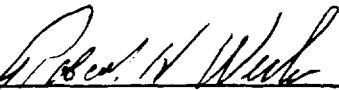
Upon completion of its obligations under this Consent Order, Respondent shall provide a written certification to the U.S. EPA and OEPA that it deems its obligations here under to have been satisfied. The provisions of this Consent Order shall be deemed satisfied upon receipt by the Respondent of written notice from the U.S. EPA and OEPA that the Respondent has demonstrated that all of the terms of this Consent Order, including any additional work, modifications or amendments required under this Consent Order have been completed in accordance with the terms hereof to the satisfaction of the U.S. EPA and OEPA. Such written notice from U.S. EPA and OEPA shall be provided within 30 days of receipt of Respondent's certification, provided that all necessary documentation to determine the adequacy of Respondent's performance has been previously submitted. Notice of termination of this Consent Order shall not be unnecessarily withheld.

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IT IS SO AGREED:  
FOR RESPONDENT  
RUETGERS - NEASE CHEMICAL  
COMPANY, INC.

BY:



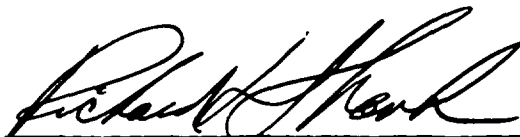
Robert H. Wecker, President

Dec 18 1987

Date

IT IS SO ORDERED AND AGREED:

BY:

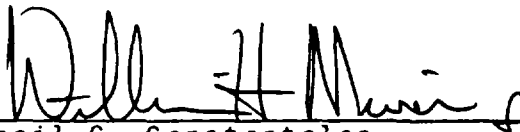


Richard L. Shank  
Director  
Ohio Environmental Protection Agency

JAN 22 1988

Date

BY:



Basil G. Constantelos  
Director, Waste Management Division  
U.S. Environmental Protection Agency, Region V

Jan 27, 1988

EFFECTIVE DATE: \_\_\_\_\_

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